

COLORADO SOCIETY OF CLINICAL PATHOLOGISTS

5523 Yank Way • Arvada, CO 80002
cscpmgr@hotmail.com • www.cscpweb.org

April 22, 2022

The Honorable Susan Lontine
Chair, House Health and Insurance Committee
HCR 112
200 E Colfax Avenue
Denver, CO 80203

The Honorable David Ortiz
Vice-Chair, House Health and Insurance Committee
HCR 112
200 E Colfax Avenue
Denver, CO 80203

RE: Amend Senate Bill 78- Prior Authorization Exemption Health-Care Provider

Dear Chair Lontine and Vice-Chair Ortiz:

The Colorado Society of Clinical Pathologists (CSCP), with the support of the College of American Pathologists (CAP), submit the following written comments requesting a critical amendment to Senate Bill 78 to protect our patients and health care providers.

While we appreciate the intent to alleviate administrative burdens on health care providers by requiring an exemption for prior authorization for qualified providers, we are deeply concerned about potential adverse claims impacts upon both health care providers and patients given the legislation's omission of any statutory protections to ensure coverage and payment for health care services. This omission generates a bill that largely favors health insurances plans to the potential financial detriment of both patients and health care providers.

Specifically, the bill does not afford protections to patients against retrospective denials of coverage for services which have been subject to the prior authorization waiver. Quite simply, without these protections the bill presents substantial financial risk to certain providers, including pathologists, who receive orders for health care services from physicians who have received a waiver from prior authorization. Similarly, patients will be at financial risk from receiving retrospective denials of coverage- a protection that is currently in Colorado law based upon prior authorization being granted.

Accordingly, we urge an amendment to ensure when prior authorization requirements are waived under an 'exemption' there will be a statutory protection against an adverse claims impact upon any physician that performs or supervises a service exempted from such prior authorization. Without this statutory protection, pathologists and laboratories can be denied or limited payment for the services subject to prior authorization exemptions. In these cases, patients may be at financial risk for uncovered health care services.

To protect against this scenario, Texas's 2021 model gold carding prior authorization law included safeguards to protect against adverse claims impact upon the waiver of prior authorization for qualified physicians.

Texas Law Sec. 4201.659.

(a) A health maintenance organization or insurer may not deny or reduce payment to a physician or provider for a health care service for which the physician or provider has qualified for an exemption from preauthorization requirements under Section 4201.653 based on medical necessity or appropriateness of care unless the physician or provider:

(1) knowingly and materially misrepresented the health care service in a request for payment submitted to the health maintenance organization or insurer with the specific intent to deceive and obtain an unlawful payment from the health maintenance organization or insurer; or (2) failed to substantially perform the health care service.

As noted, of concern, Colorado's current protection under Colo. Rev. Stat. § 10-16-704 is nullified under Senate Bill 78, which provides the following retrospective denial safeguard when prior authorization has been approved by a health plan carrier:

(4) When a treatment or procedure has been preauthorized by the plan, benefits cannot be retrospectively denied except for fraud and abuse. If a health carrier provides preauthorization for treatment or procedures that are not covered benefits under the plan, the carrier shall provide the benefits as authorized with no penalty to the covered person.

The CAP and CSCP believe that analogous safeguard language must be included to protect against any downstream adverse claims impact upon providers of the health care services ordered by providers exempted from prior authorization.

For these reasons, we urge the following amendment:

1) Amend Page 4, Line 12 by Inserting New:

(VII) A carrier or organization shall not deny or reduce payment for a health care service exempted from a prior authorization requirement as provided under subsection 10-16-112.5. (c)(I)(A), including a health care service performed or supervised by another physician when the physician or provider who ordered such service received a prior authorization exemption unless the physician or provider: (1) knowingly and materially misrepresented the health care service in a request for payment submitted to a carrier or organization with the specific intent to deceive and obtain an unlawful payment from the carrier or organization; or (2) failed to substantially perform the health care service.

In conclusion, we implore you to amend Senate Bill 78 to incorporate the payment safeguard to protect patients and physicians from adverse claims impact and undue financial risk.

Thank you for your consideration.

Sincerely,



Bryan Coffing, MD, FCAP
Colorado Society of Clinical Pathologists, President

cc: Barry Ziman, Director, Legislation and Political Action, College of American Pathologists
Amy Berenbaum Goodman, JD, MBE, Senior Director of Policy, Colorado Medical Society
Emily Bishop, Director of Government Affairs, Colorado Medical Society